

**REMARKS**

In response to the Office Action mailed December 9, 2004, each one of the cited references has been reviewed, and the rejections and objections made to the claims by the Examiner have been considered. The claims presently on file in the above-identified application are believed to be patentably distinguishable over the cited references, and therefore allowance of these claims is earnestly solicited.

In order to render the claims more clear and definite, and to emphasize the patentable novelty thereof, claims 13-15 have been cancelled without prejudice, claims 1-4, 6, 8-11, and 16-17 have been amended, and new claims 18-20 have been added. No fees are required as independent and dependent claim counts are unchanged from those originally filed.

**New Claims**

New independent claim 18 and its dependent claim 19 have been added. New independent claim 18 recites "a housing having a plurality of mounting surfaces and having mounted therein a plurality of lockable split balls for providing universal movement, said plurality of lockable split balls including a stationary split ball, a moveable split ball and a locking arrangement that secures said moveable ball in a fixed stationary position relative to said stationary ball", which features are not disclosed in the cited prior art of record. Claim 19 further defines the scope of applicant's invention.

New independent claim 20 has also been added. New independent claim 20 is a method claim which includes the step of "providing a housing having a plurality of mounting surfaces and having mounted therein a plurality of lockable split balls for providing universal movement, said plurality of lockable split balls including a stationary split ball, a moveable split ball and a locking arrangement that secures said moveable ball

In a fixed stationary position relative to said stationary ball; wherein said plurality of mounting surfaces have mounted thereto an armrest platform to facilitate lockable universal movement of the armrest platform relative to a stationary surface...", which step is not disclosed in the prior art of record. Accordingly, claims 18-20 are in condition for immediate allowance and such action is earnestly requested.

Therefore, all claims presently on file in the subject application are in condition for immediate allowance, and such action is respectfully requested.

### **Rejections**

#### **Rejections Under 35 USC §112, Second Paragraph**

Claim 11 has been rejected under the second paragraph of 35 USC §112 as being indefinite since it contains redundant language, namely "along a rectilinear path of travel". Responsive to this rejection, attorney for applicant has followed the helpful suggestion of the examiner by eliminating the redundant phrase "of travel" from claim 11.

With respect to claims 14 and 15 the examiner has suggested utilizing "first", "second", and "third" in lieu of "a desired position", "another desired position", and "yet another desired position", would render the claim more clear and definite. Attorney for applicant respectfully disagrees with the examiner, as the conjunctions of "a", "another", and "yet another" are clear and definite. Accordingly, attorney for applicant respectfully requests that the examiner withdraw the rejection of claims 14 and 15 for being indefinite and unclear.

**Rejections Under 35 USC §102**

I. Claims 1-11 and 13-16 have been rejected under 35 USC §102 as being anticipated by *Zarkhin et al. (U.S. 5, 713,591)*.

**A. Claim 1**

Claim 1 as amended specifies amongst other things, as follows:

"1. An armrest assembly comprising:

cutout block means having a cutout for receiving therein a rail and rail securing means to facilitate attaching said cutout block means to said rail;

said cutout block means further having a passageway for receiving therein an elongated raiser and lever raiser means for raising, lowering and securing said riser at a desired height relative to said rail;

housing means having inner split ball means and outer split ball means mounted therein for facilitating relative tilting, turning and rotating movement between said inner split ball means and said outer split ball means;

armrest means attached to said housing means to facilitate universal movement of said armrest means relative to said outer split ball means; and

wherein said riser is fixed at its distal end within said inner split ball to help facilitate relative tilting, turning and rotating movement of said armrest means relative to said rail."

Nowhere is this combination of elements and steps described in, nor suggested by the *Zarkhin et al. (U.S. 5, 713,591)* reference.

"Anticipation is established only when a single prior art reference discloses expressly or under the principles of inherency, each and every element of the claimed invention." *RCA Corp. v. Applied Digital Data Systems, Inc.*, (1984, CA FC) 221 U.S.P.Q. 385. The standard for lack of novelty that is for "anticipation," is one of strict identity. To anticipate a claim, a patent or a single prior art reference must contain all of the essential elements of the particular claims. *Schroeder v. Owens-Corning Fiberglass Corp.*, 514 F.2d 901, 185 U.S.P.Q. 723 (9th Cir. 1975); and *Cool-Fin Elecs. Corp. v. International Elec. Research Corp.*, 491 F.2d 660, 180 U.S.P.Q. 481 (9th Cir. 1974).

In the present Office Action, the Examiner's rejection is based on the ***Zarkhin et al. reference***, which fails to show all of the essential elements of the instant invention.

The ***Zarkhin et al.*** reference describes a multipositioning armrest for a wheelchair that includes a removable elbow stop assembly and a removable hand/arm support subassembly. The removable elbow stop assembly is removably mounted to the hand/arm support subassembly and the hand/arm support subassembly is removably mounted to the arm rail of a wheelchair. (See FIG. 2).

To facilitate movement of the hand/arm support assembly relative to the wheelchair rail, the ***Zarkhin et al.*** reference teaches that a forearm support ball rod 11 is permanently attached to the bottom of a forearm trough assembly 2 by a ball clamp 12a, 12b, 12c and 12d that form a swivel joint with the forearm support ball rod 11 so that the ball rod 11 can be positioned in an area bounded by a cone approximately 15 degrees. (Col 3, line 66 to Col. 4, line 3).

The ***Zarkhin et al.*** reference further discloses that the forearm support ball rod 11 is slidably mounted within a male mounting slide 10, which in turn, is mounted in a slide-mounting adaptor 9 where the male mounting slide 10 bottoms out at fixed stops 9a and 9b. (See Col. 3, lines 49 – 59). In this regard, while the female slide-mounting adaptor 9 may slide along a rectilinear path adjacent to the wheel chair arm rail 4, to carry the forearm trough assembly 2 forward and backward about the arm rail 4, the forearm support ball rod 11 is limited to 180-degree rotational movement relative to the arm rail 4. (See FIG 2.).

The novel features of the present invention are not disclosed, nor suggested

by the **Zarkhin et al. reference** in that the **Zarkhin et al. reference** does not disclose, nor suggest a "cutout block means having a cutout for receiving therein a rail and rail securing means to facilitate attaching said cutout block means to said rail....". More specifically the **Zarkhin et al. reference** fails to teach or suggest "a cutout for receiving therein a rail and rail securing means" and instead the **Zarkhin et al. reference** teaches an adjustable mounting rod 7 that is secured to a wheelchair arm rail 4 by mounting screws 5 and 6.

Secondly, the **Zarkhin et al. reference** fails to disclose or teach "housing means having inner split ball means and outer split ball means mounted therein for facilitating relative tilting, turning and rotating movement between said inner split ball means and said outer split ball means..." In this regard, the **Zarkhin et al. reference** is completely silent relative to this claimed structure.

Thirdly, the **Zarkhin et al. reference** fails to suggest or disclose "armrest means attached to said housing means to facilitate universal movement of said armrest means relative to said outer split ball means..." The **Zarkhin et al. reference** is completely silent relative to this claimed structure.

Finally, the **Zarkhin et al. reference** does not suggest nor teach "wherein said riser is fixed at its distal end within said inner split ball to help facilitate relative tilting, turning and rotating movement of said armrest means relative to said rail..."

Thus, while the **Zarkhin et al. reference** may teach an adjustable armrest for a wheelchair, the **Zarkhin et al. reference** does not disclose, nor suggest, the novel features of the present invention as claimed. Therefore, claim 1 as amended, and each of its dependent claims patentably distinguish over the **Zarkhin et al. reference**.

**B. Claim 9**

Claim 9 as amended specifies amongst other things, as follows:

"9. A phlebotomy armrest to help facilitate drawing blood from the arm of a patient, comprising:

an armrest supported from below by a universal adjustment arrangement to place the arm of the patient in any one of a plurality of desired position planes relative to a supporting surface;

said universal adjustment arrangement including a housing removably mounted to said armrest;

said housing having disposed therein an outer split ball and an inner split ball mounted for universal movement relative to one another;

said inner split ball having a securing arrangement for securing a riser to said inner split ball; and

said outer split ball having another securing arrangement for securing said outer split ball in a fixed position relative to said inner split ball."

Nowhere is this combination of elements and steps described in, nor suggested by the *Zarkhin et al. (U.S. 5, 713,591) reference*.

The novel features of the present invention are not disclosed, nor suggested by the *Zarkhin et al. reference* in that the *Zarkhin et al. reference* does not disclose, nor suggest a "an armrest supported from below by a universal adjustment arrangement... said universal adjustment arrangement including a housing ...having disposed therein an outer split ball and an inner split ball mounted for universal movement relative to one another..."

Secondly, the *Zarkhin et al. reference* does not teach nor disclose "said inner split ball having a securing arrangement for securing a riser to said inner split ball"

Finally the *Zarkhin et al. reference* does not suggest, nor teach "said outer split ball having another securing arrangement for securing said outer split ball in a fixed position relative to said inner split ball."

Thus, while the *Zarkhin et al. reference* may teach an adjustable armrest for a wheelchair, the *Zarkhin et al. reference* does not disclose, nor suggest, the novel features of the present invention as claimed. Therefore, claim 9 as amended, and each of its dependent claims patentably distinguish over the *Zarkhin et al. reference*.

### C. Claim 16

Claim 16 as amended specifies amongst other things, as follows:

"16. An armrest assembly comprising:

a block like base unit having a cutout for receiving therein an arm rail;

a clamping arrangement coupled to said cutout for helping to secure said base unit to said arm rail;

a housing unit having a plurality of split balls mounted therein that facilitates rotational movement, turning movement, and tilting movement;

an armrest platform supported from below by said housing unit; and

a straight riser slidably mounted within said base unit and having its distal end mounted within an individual one of said plurality of split balls to facilitate rotational, turning, and tilting movement of said armrest platform relative to said arm rail."

Nowhere is this combination of elements and steps described in, nor suggested by the *Zarkhin et al. (U.S. 5, 713,591) reference*.

The novel features of the present invention are not disclosed, nor suggested by the *Zarkhin et al. reference* in that the *Zarkhin et al. reference* does not disclose, nor suggest "a block like base unit having a cutout for receiving therein an arm rail..."

Secondly, the ***Zarkhin et al. reference*** does not teach, nor disclose " a clamping arrangement coupled to said cutout for helping to secure said base unit to said arm rail..."

Finally, the ***Zarkhin et al. reference*** does not suggest, nor teach " a straight riser slidably mounted within said base unit and having its distal end mounted within an individual one of said plurality of split balls to facilitate rotational, turning, and tilting movement of said armrest platform relative to said arm rail."

Thus, while the ***Zarkhin et al. reference*** may teach an adjustable armrest for a wheelchair, the ***Zarkhin et al. reference*** does not disclose, nor suggest, the novel features of the present invention as claimed. Therefore, claim 16 as amended, and each of its dependent claims patentably distinguish over the ***Zarkhin et al. reference***.

II. Claims 1-15 have been rejected under 35 USC §102 as being anticipated by ***Aaras et al. (U.S.4,277,102)***.

In the present Office Action, the Examiner's rejection is based on the ***Aaras et al*** reference, which fails to show all of the essential elements of the instant invention.

The ***Aaras et al.*** reference describes a chair having a seat portion, a back rest and arm rests. The arm rests are individually supported on arms mounted on the seat support members. The connection of the arm rests to the support arms and the support arms to the seat body are through the use of universal joints allowing movement in all directions.



**A. Claim 1**

Claim 1 as amended specifies amongst other things, as follows:

\*1. An armrest assembly comprising:

cutout block means having a cutout for receiving therein a rail and rail securing means to facilitate attaching said cutout block means to said rail;

said cutout block means further having a passageway for receiving therein an elongated raiser and lever raiser means for raising, lowering and securing said riser at a desired height relative to said rail;

housing means having inner split ball means and outer split ball means mounted therein for facilitating relative tilting, turning and rotating movement between said inner split ball means and said outer split ball means;

armrest means attached to said housing means to facilitate universal movement of said armrest means relative to said outer split ball means; and

wherein said riser is fixed at its distal end within said inner split ball to help facilitate relative tilting, turning and rotating movement of said armrest means relative to said rail."

Nowhere is this combination of elements and steps described in, nor suggested by the *Aaras et al. (U.S. 4,277,102)* reference in that the *Aaras et al. reference* does not disclose, nor suggest, "a cutout block means having a cutout for receiving therein a rail and rail securing means to facilitate attaching said cutout block means to said rail...".

Secondly, the *Aaras et al. reference* does not teach, nor disclose, "said cutout block means further having a passageway for receiving therein an elongated raiser and lever raiser means for raising, lowering and securing said riser at a desired height relative to said rail...".

Thirdly the *Aaras et al. reference* does not suggest, nor teach, "housing means having inner split ball means and outer split ball means mounted therein for facilitating relative tilting, turning and rotating movement between said inner split ball means and said outer split ball means...".

Fourthly, the *Aaras et al. reference* does not disclose, nor suggest, "armrest means attached to said housing means to facilitate universal movement of said armrest means relative to said outer split ball means..."

Finally, the *Aaras et al. reference* does not teach, nor disclose, "wherein said riser is fixed at its distal end within said inner split ball to help facilitate relative tilting, turning and rotating movement of said armrest means relative to said rail."

Thus, while the *Aaras et al. reference* may describes a chair arm rests where the connection of the arm rests to the support arms is through the use of universal joints the *Aaras et al. reference* does not disclose, nor suggest, the novel features of the present invention as claimed. Therefore, claim 1 as amended, and each of its dependent claims patentably distinguish over the *Aaras et al. reference*.

#### **B. Claim 9**

Claim 9 as amended specifies amongst other things, as follows:

"9. A phlebotomy armrest to help facilitate drawing blood from the arm of a patient, comprising:

an armrest supported from below by a universal adjustment arrangement to place the arm of the patient in any one of a plurality of desired position planes relative to a supporting surface;

said universal adjustment arrangement including a housing removably mounted to said armrest;

said housing having disposed therein an outer split ball and an inner split ball mounted for universal movement relative to one another;

said inner split ball having a securing arrangement for securing a riser to said inner split ball; and

said outer split ball having another securing arrangement for securing said outer split ball in a fixed position relative to said inner split ball."

Nowhere is this combination of elements and steps described in, nor suggested by the *Aaras et al.* reference in that the *Aaras et al.* reference does not disclose, nor suggest " an armrest supported from below by a universal adjustment arrangement ...including a housing removably mounted to said armrest...said housing having disposed therein an outer split ball and an inner split ball mounted for universal movement relative to one another"

Secondly, the *Aaras et al.* reference does not suggest, nor teach, "said inner split ball having a securing arrangement for securing a riser to said inner split ball..."

Finally, the *Aaras et al.* reference does not disclose, nor suggest, "said outer split ball having another securing arrangement for securing said outer split ball in a fixed position relative to said inner split ball."

Thus, while the *Aaras et al.* reference may describes a chair arm rests where the connection of the arm rests to the support arms is through the use of universal joints the *Aaras et al.* reference does not disclose, nor suggest, the novel features of the present invention as claimed. Therefore, claim 9 as amended, and each of its dependent claims patentably distinguish over the *Aaras et al.* reference.

#### **Rejections Under 35 USC §103**

I. Claim 12 have been rejected under 35 USC §103 as being unpatentable over the *Zarkhin* reference in view of *Bergsten et al.* (5,281,001). As Claim 12 is a dependent claim depending from base claim 9 as amended, claim 12 patentably distinguishes over the cited references under the same rationale as set forth earlier relative to the *Zarkhin* reference and claim 9 as amended.

II. Claim 17 has been rejected under 35 USC §103 as being unpatentable over the *Zarkhin reference* in view of *Seils (1,706,634)*. As Claim 17 is a dependent claim depending from base claim 16 as amended, claim 17 patentably distinguishes over the cited references under the same rationale as set forth earlier relative to the *Zarkhin reference* and claim 16 as amended.

III. Claims 16 and 17 been rejected under 35 USC §103 as being unpatentable over the *Aaras et al. reference* in view of the *Bergsten et al. reference*.

**A. Claim 16**

The examiner has rejected claim 16 under 35 USC §103 as being unpatentable over the *Aaras et al. reference* in view of the *Bergsten et al. reference*.

The *Bergsten et al. reference* describes an ergonomic arm support for supporting the forearm during typing. The arm support includes an armrest pivotally mounted on a slide for sliding the armrest to and away from a base, which is secured to a table or chair. The slide is pivotally mounted in the base such that the armrest, which is pivotal relative to the slide and slidable to and away from the base, is also rotatable about the base to provide for a wide range of motion for the forearm.

Claim 16 as amended, and its dependent claim 17 patentably distinguish over the cited reference because claim 16 as amended emphasizes the novel features of the present invention. In this regard, claim 16 as amended specifies:

"16. An armrest assembly comprising:

a block like base unit having a cutout for receiving therein an arm rail;

a clamping arrangement coupled to said cutout for helping to secure said base unit to said arm rail;

a housing unit having a plurality of split balls mounted therein that facilitates rotational movement, turning

movement, and tilting movement;

an armrest platform supported from below by said housing unit; and

a straight riser slidably mounted within said base unit and having its distal end mounted within an individual one of said plurality of split balls to facilitate rotational, turning, and tilting movement of said armrest platform relative to said arm rail."

The novel features of the present invention are not disclosed, nor suggested by the *Aaras et al. reference* in view of the *Bergsten et al. reference* in that neither of the cited references whether taken alone or in combination with one another disclose or teach, " a housing unit having a plurality of split balls mounted therein that facilitates rotational movement, turning movement, and tilting movement..." Both references are completely silent relative to such a structure.

Finally, neither of the cited references whether taken alone or in combination with one another disclose or teach, " a straight riser slidably mounted within said base unit and having its distal end mounted within an individual one of said plurality of split balls to facilitate rotational, turning, and tilting movement of said armrest platform relative to said arm rail." Again, both cited references are completely silent relative to such a structure.

Thus, while the cited references may teach adjustable armrests, the cited references do not disclose, nor suggest, the novel features of the present invention as claimed. Therefore, claim 16 as amended and its dependent claim 17 as amended patentably distinguish over the cited references whether taken alone or in combination with one another.

**Conclusion**

Attorney for Applicant has carefully reviewed each one of the cited references made of record and not relied upon, and believes that the claims presently on file in the subject application patentably distinguish thereover, either taken alone or in combination with one another.

Therefore, all claims presently on file in the subject application are in condition for immediate allowance, and such action is respectfully requested. If it is felt for any reason that direct communication with Applicant's attorney would serve to advance prosecution of this case to finality, the Examiner is invited to call the undersigned

Jerry R. Potts, Esq. at the below-listed telephone number.

Dated: December 28, 2004

Respectfully submitted,

Jerry R. Potts & Associates

By 

Jerry R. Potts  
Attorney for Applicant  
Registration No. 27,091

JERRY R. POTTS & ASSOCIATES  
3248 Via Ribera  
Escondido, California 92029

Telephone: 760-822-6201  
Facsimile: 760-747-3951  
Email: jrpotts@cox.net